

HAWKE'S BAY REGION

TRIENNIAL AGREEMENT



For the Triennium from October 2016

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1. PARTIES

The parties to this Triennial Agreement (the Agreement) are:

Primary Parties:

(those local authorities whose boundaries are completely encompassed within the Hawke's Bay Region)

- Central Hawke's Bay District Council
- Hastings District Council
- Hawke's Bay Regional Council
- Napier City Council
- Wairoa District Council

Non-Primary Parties:

(those local authorities whose boundaries bisect the Hawke's Bay Region and whose principal identification is with another Region)

- Rangitikei District Council
- Taupo District Council

This Agreement applies to all local authorities in the Hawke's Bay Region. However, it is recognised that for Non-Primary Parties, the degree of involvement in various aspects of the Agreement will be in proportion to the degree to which these parties assess how they will benefit or be affected by decisions, issues, proposals or other matters.

2. PURPOSE

The Local Government Act 2002 ('the Act') encourages collaboration between local authorities and other agencies and organisations, and particularly encourages councils to collaborate with one another.

This Agreement provides one framework to achieve this, representing the shared desire of local governments in the Hawke's Bay region to: work collaboratively, improve communication and co-ordination at all levels of local Government, maximise effectiveness and efficiency, and to meet the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions.

This agreement is deemed to duly constitute fulfilment of the requirements of section 15 of the Local Government Act 2002.

It should be noted that as well as the encouragement towards collaboration, the Local Government Act 2002, and other legislation including the Resource Management Act 1991, recognises that regional councils and territorial authorities have different responsibilities as local government entities. These differences provide an important context for collaboration between the Councils. The requirements contained in legislation for collaboration between Local Authorities are summarised in Appendix One to this Agreement.

3. PRINCIPLES

Parties to this Agreement agree to work together in good faith for the good governance of their localities and the Region, and

1. acknowledge that the communities within the Region are diverse and encompass a range of desired outcomes and objectives;
2. support the establishment of processes for communication and collaboration at both governance and management levels in ways that will enhance the overall performance and reputation of local government in the region;
3. recognise that collaboration and co-operation between local authorities of the Region can bring efficiencies in terms of planning, administration costs and decision-making and consultation. There is also the potential to increase available resources and promote co-operative approaches in making strategic choices;
4. will investigate further opportunities for collaboration, co-operation, regional funding and shared services between local authorities of the Region in addition to those prescribed by statute or already being undertaken,
5. agree that collaborative or shared services opportunities may occur between two or more parties to this Agreement, but not in every case between all parties to this Agreement. Although collaboration and co-operation are outcomes that should be strived for, each local authority has the legislative mandate to govern their own area as appropriate;
6. will make every effort to accommodate, acknowledge, or at least fairly represent the dissenting view where some parties to this Agreement have a significant disagreement with the position of other parties to the Agreement; and
7. will show leadership to ensure the implementation of this Agreement makes a positive difference for Hawke's Bay.

4. GENERAL APPROACH TO COMMUNICATION AND CO-ORDINATION

It is recognised that a significant level of formal and informal co-operation already exists between Hawke's Bay local authorities.

Key priorities within existing co-operative arrangements include:

- Hawkes Bay Local Authority Shared Services Council Controlled Organisation ('HBLASS');
- Matariki – Hawke's Bay regional economic development strategy;
- Civil Defence and Emergency Management activities;
- Regional Transport Committee;
- Hawke's Bay Tourism;
- participation in wider regional activities through Local Government New Zealand's Zone 3; and
- participation and contributions to LIFT / Intersectoral Group activities, noting that the governance and structure of this group with possible integration with other regional activities is to be reviewed following the development of the Social Inclusion Strategy.

New priority areas to develop co-operative approaches are:

- To develop a regional funding approach for existing and new regional assets
- To develop a collaborative approach to emerging freshwater management issues, including those identified through the Government Inquiry into Havelock North Drinking Water

Further to this existing cooperation, parties to this Agreement will:

1. Hold quarterly meetings of the Mayors of the primary parties and the Regional Chairman to formally communicate and coordinate on matters of mutual interest.
2. Invite the Chief Executives of the primary parties to attend every Forum for a period of time at the start of each meeting.
3. At the first meeting following the local body election elect a Chair of the Forum from among the attendees. The Council whom the elected Chair represents will provide the administrative support for the Forum for that triennium.
4. Review the performance of the Agreement at least annually.
5. Share resources where feasible for the purposes of preparing information on the various communities in the region. These resources may include information on demographics, survey data, scientific studies and the analysis of social, economic, environmental and cultural trends.
6. Develop joint approaches, where appropriate, to engage Central Government, iwi governance bodies and tribal entities, national agencies and community organisations.
7. Continue to support the HBLASS, which is tasked with the development and implementation of shared services arrangements for the Hawke's Bay Region.
8. Provide early for notification of, and participation in, decisions that may affect other local authorities in the region.
9. Make draft strategies, policies, and plans available to other local authorities in the region for discussion and development, where they may have regional implications or implications beyond the boundaries of the decision-making council.
10. Apply a "no surprises" policy whereby early notice will be given over disagreements between local authorities concerning policy or programmes before the matter is put out to the public.
11. Establish, as necessary, other forums at both political and operational levels that will help enhance and achieve the purpose of this Agreement.
12. Provide a process for initiating reviews of regional forums that are not working optimally in the view of one or more parties.

These approaches to communication and co-ordination will be used when preparing, reviewing or changing any parts of the Regional Policy Statement and other Resource Management Act planning documents and will be the agreed consultation process for the purposes of section 3A of the First Schedule of the Resource Management Act.

The parties to this agreement recognise that the Regional Policy Statement may contain matters that affect other local authorities in the region and can have regional implications.

5. IMPLEMENTATION PROTOCOLS

Meetings:

1. Meetings will be arranged and minutes kept by the appointed Chair - elected each three-year term - and minutes distributed to all parties to the Agreement. This does not preclude meetings being arranged, on request, by Councils other than that of the appointed Chair.
2. Given the importance accorded to this Agreement each Council will be represented by its Mayor/ Chairperson and Chief Executive.
3. Where appropriate, and agreed, the Chief Executive of a Council Controlled Organisation (CCO) may attend an item related to that CCO's activities.
4. Media and communications contact (including the provision of information to the public on request) in relation to matters covered in the Agreement shall be shared on a rotating basis.
5. All public communications from these meetings shall be approved by all participants prior to their release.
6. Where a significant decision or issue affects a particular Council, or its community, it should, in partnership with the other Councils of the region, have the lead role in formulating the collective response of the region's local authorities to this issue or decision.
7. Responsibility for servicing, and making media comment on behalf of, existing specific regional and sub-regional forums, will lie within those specific forums.

Prioritisation of Activities:

1. The parties will agree initial priorities for the upcoming 3 years at the first meeting of the triennium.
2. Priorities will be communicated via the Chief Executives to the respective parties.

6. SIGNIFICANT NEW ACTIVITIES PROPOSED BY HAWKE'S BAY REGIONAL COUNCIL

If the Regional Council or a Regional Council controlled organisation proposes to undertake a significant new activity, and these activities are already undertaken or proposed to be undertaken by one or more territorial authorities within the region, Section 16 of the Act applies.

However, in the spirit of this Agreement, the parties agree to an expanded consultation and communication process. The parties agree to discuss the issues involved at the quarterly meetings (see 4(1) above), and to provide drafts of proposals to affected Councils for early comment in accordance with the requirements of sections 77-89 of the Local Government Act (decision-making and consultation).

The parties also agree that prior to implementing the formal provisions of the Local Government Act Section 15 (2 and 3)¹:

- the Regional Council will inform all territorial authorities within the region of:
 - the nature of the activity proposed to be undertaken;
 - the scope of the proposal (including size, districts covered, and why);
 and
 - the reasons for the proposal.
- territorial authorities will be given a reasonable period of time, but no less than 40 working days, to respond to any such proposal. The Regional Council agrees to fully consider any submissions and representations on the proposal made by territorial authorities within the region.

Should the mediation processes outlined in LGA Section 15(4) be initiated, the parties agree to the following process.

If no agreement on a mediator is forthcoming, a mediator will be appointed by the President of the Hawke's Bay District Law Society. If mediation is unsuccessful, any of the local authorities affected may ask the Minister of Local Government to make a binding decision on the proposal. The parties that have agreed to the mediation will meet the cost of mediation equally.

7. CONSULTATION IN RELATION TO REGIONAL POLICY STATEMENT

For the purposes of meeting the requirements of Schedule 1, Clause 3A, to the Resource Management Act, the consultation process to be used by affected local authorities in relation to policy statements and plans will follow the process outlined below:

Stage 1: Pre-Plan Preparation

Meaningful discussion will occur at a staff level to allow:

- A wide range of issues and options to be discussed
- Free, open and frank discussions without prejudice
- Best use of professional resources to evaluate techniques and options

Once a good understanding has been obtained of the

- Reasons for the policy statement review or change
- Minor policy differences and their basis
- Significant policy differences and their basis

the parties will decide if further progress can be made to resolve those differences and a process and timeframe to move forward should be established.

¹ Appendix One

Stage 2: Draft Change

When a policy statement or plan review or change reaches a draft stage and before it has been adopted by Council for consultation, it shall be forwarded to councils in the region (where they have an interest) for their comment. Parties will err on the side of inclusion rather than exclusion.

The general principles of comments from recipient councils should be as follows:

- Comments on a draft policy statement change would be semi-formal to the extent that they would generally be:
 - discussed with or reported to the Council; and
 - represent the organisational view.
- Comments on a draft policy statement or plan change should be preceded by a summary of the position reached through pre-consultation.
- Staff focus should be on policy implications with an emphasis on matters of difference already identified. Constructive commenting on style or grammar should be confined to informal exchanges between peers (e.g. as emails).

Stage 3: Notified Change

Once a reviewed policy statement or plan or change to the policy statement or plan has been publicly notified under the First Schedule to the RMA, matters in contention between the parties should be clearly identified and well understood.

Any new matters introduced into the policy statement or plan likely to be of interest to the recipient councils should be clearly communicated by the Council responsible and include the reasons for inclusion at this stage.

Submissions should be formal and be supported by policy and other relevant documentation or evidence including (but not limited to):

- Long Term Plans;
- Other statutory documents including asset management plans, growth management plans, strategies and district plans; and
- Relevant operational requirements and corporate activities.

Stage 4: Appeals to the Environment Court

Given the significant cost, resource and relationship impacts of appeals, best endeavours should be made to reach agreement on matters of significant difference prior to this stage. Differences of professional opinion will arise at times, however, and it is recognised that these can benefit from Environment Court decisions.

Nothing in this Agreement shall interfere with the rights, functions or duties given by statute to any party.

8. DISPUTE RESOLUTION

In the event of a disagreement between the Councils as to the interpretation or implementation of this Agreement, and/ or that disagreement between the Councils as to the interpretation or implementation of this Agreement to vary the terms of this Agreement in accordance with s.15(3) of the Act, then the matter in dispute will be referred to mediation.

If the Councils cannot agree on the appointment of a mediator, the President of the Hawke's Bay District Law Society will be requested to appoint the mediator. The costs of the mediation shall be borne by the Councils in equal shares.

9. REVISION OF THE AGREEMENT

1. The Agreement is effective from the date of signing until such time as the Agreement is either amended by the agreement of all parties or is renewed following the 2019 local authority elections which must be before 1 March 2020.
2. If a party to the Agreement requests a review of its terms within the triennium, such a review will begin within four weeks of the request being lodged. Otherwise the Agreement will be renewed following the local body elections as outlined in 9(1) above.
3. The performance of the Agreement shall be reviewed at least annually.
4. Hawke's Bay Regional Council will be the first Council responsible for servicing this Agreement.

10. PARTIES - SIGNATURES

This Agreement is signed on this day of 2017 by the following on behalf of their respective authorities.

PRIMARY PARTIES:

**CENTRAL HAWKE'S BAY DISTRICT
COUNCIL**

HASTINGS DISTRICT COUNCIL

.....
Mayor

.....
Mayor

.....
Chief Executive

.....
Chief Executive

HAWKE'S BAY REGIONAL COUNCIL

NAPIER CITY COUNCIL

.....
Chairman

.....
Mayor

.....
Chief Executive

.....
Chief Executive

WAIROA DISTRICT COUNCIL

.....
Mayor

.....
Chief Executive

NON-PRIMARY PARTIES:

RANGITIKEI DISTRICT COUNCIL

TAUPO DISTRICT COUNCIL

.....
Mayor

.....
Mayor

.....
Chief Executive

.....
Chief Executive

APPENDIX ONE: LEGISLATIVE CONTEXT

LOCAL GOVERNMENT ACT 2002

Section 15 requires that:

1. Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement covering the period until the next triennial general election of members.
2. The agreement must include:
 - (a) protocols for communication and co-ordination among the local authorities; and
 - (b) a statement of the process by which the local authorities will comply with section 16 in respect of proposals for new regional council activities; and
 - (c) processes and protocols through which all local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than 1 district.
3. After the date specified in subsection (1), but before the next triennial general election of members, all local authorities within each region may meet and agree to amendments to the protocols.
4. An agreement remains in force until replaced by another agreement.

In addition, other sections of the LGA also require collaboration:

Section 14(e) –

A local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources.

Section 16 – (summary)

If a Regional Council, or a Regional Council-controlled organisation, proposes to undertake a significant new activity, the Regional Council must advise all the territorial authorities within its region of the proposal and seek their agreement.

Section 91(3)(a) –

The local authority –

- (a) must, before finally deciding on that process, take steps –
 - i. to identify, so far as practicable, other organisations and groups capable of influencing either the identification or the promotion of community outcomes; and
 - ii. to secure, if practicable, the agreement of those organisations and groups to the process and to the relationship of the process to any existing and related plans.

Section 92(2) –

... The local authority must seek to secure the agreement of organisations and groups identified under section 91(3)(a) to the monitoring and reporting procedures including the incorporation of any research, monitoring, or reporting undertaken by those organisations and groups.

RESOURCE MANAGEMENT ACT 1991**Schedule 1, Clause 3A – Consultation in relation to policy statements**

1. A triennial agreement entered into under section 15(1) of the Local Government Act 2002 must include an agreement on the consultation process to be used by the affected local authorities in the course of –
 - a. Preparing a proposed policy statement or a variation to a proposed policy statement; and
 - b. Preparing a change to a policy statement; and
 - c. Reviewing a policy statement.